IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.37 OF 2005

Mansing Shankar Bhoje. ..Petitioner.

V/s.

Under Secretary,
Education Department
Manatralaya & Ors. ..Respondents.

Mr.G.M.Savagave for petitioner.

Smt. Meena H. Doshi for respondent No.4.

Shri G.C.Sawant for respondent No.7.

Smt. S.S.Bhende, AGP for State.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 23, 2007.

P.C. :

1. Mrs.Doshi appears for respondent No.4 and contends that respondent No.4 was never holding post of Director of Education, Secondary and Higher Secondary Education and in any case had no occassion to deal with the matter of the petitioner. In the circumstances, respondent No.4 has no concern with this proceeding. Counsel for the petitioner is unable to counter this submission. Accordingly, respondent No.4 stands deleted from the array of the respondents. Accordingly, notice issued to respondent No.4 stands discharged.

2. Grievance in this petition is one of the non-compliance of order dated 19th August, 2004 passed by the Division Bench of this Court in Civil Application No.1903 of 2004. In terms of that order respondents-contemnors were directed to grant petitioner retiral benefits on the basis of last drawn salary and submit compliance report within two months therefrom.

3. The affidavit is filed by the respondents before this Court sworn by Suresh Raghunath Ethape, Superintendent Director of Education(Secondary) and Higher Secondary, Pune. It is stated that payment has already been made to the petitioner by three demand drafts and the payment so made satisfies the requirement of paying retiral benefits to the petitioner on the basis of his last drawn salary. It is further seen that the payment has been made much before 19th August, 2004.

4. To get over this position, counsel for the petitioner would contend that the payment does not match with the last drawn salary of the petitioner, which was Rs.6,500/-. This submission has been countered by the counsel for the respondent by

pointing out the original record wherein computation of amount to be paid to the petitioner towards retiral benefits was done on the basis of his last drawn salary as Rs.6,500/-. This position is reflected in letter issued under the signature of Assistant Accountant General, Senior Account office. There is no reason to doubt the correctness of this position. In other words, the petitoner has been paid his retiral dues on the basis of last drawn salary as Rs.6,500/-. Counsel for the petitioner would then contend that the petitioner had made representation for fixing pay-scale and his claim was to determine pay-scale at Rs.8,500/-. Counsel for the respondent has produced the documents from the original record to show that even that claim has been considered and rejected by the appropriate authority which position is reflected from the letter of Education Officer, (Primary), Zilla Parishad, Satara dated 19th December, 2001. This position was communicated to the petitioner by the said letter. Thus understood, in any case, the issue as to whether the petitioner was entitled for higher pay scale was not subject matter of the order dated 19th August, 2004. Thus understood, it is not a case to initiate contempt action.

5. Hence, petition dismisse. Notice issued to respondents stands discharged.